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6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

9 ***

10 RENEE PASSADORE,

11 Plaintiff,

12 vs.

13 STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, a Foreign
Company; and DOES I through X, inclusive;
14 and ROE ENTITIES XI through XX,
inclusive,

15 Defendants.
16

CASE NO.: 2:22-cv-02118-MMD-EJY

17 **CONFIDENTIALITY AGREEMENT AND
PROTECTIVE ORDER**

18 It appearing to the Court that Plaintiff RENEE PASSADORE (“Plaintiff”) and Defendant
19 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (“State Farm”)
20 (collectively, the “Parties”), through their undersigned counsel, hereby submit this Stipulated
21 Confidentiality Agreement and Protective Order (“Protective Order”) and state as follows:

22 1. State Farm and Plaintiff possess certain information and documents that contain
23 confidential, proprietary, or trade secret information that may be subject to discovery in this action,
24 but that should not be made publicly available.

25 2. The parties therefore request that the Court enter this Protective Order to properly
26 balance the discovery rights of the parties with each other’s rights to protect their private,
27 confidential, proprietary, or trade secret information.

28 3. All production and disclosure of information designated as CONFIDENTIAL,

1 TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER, by the parties during this litigation
2 shall be governed by this Order, including, but not limited to, information contained in or derived
3 from documents, deposition testimony, deposition exhibits, trial testimony, computer memory or
4 archives, other written, recorded or graphic matter, and all copies, excerpts, or summaries thereof
5 (collectively, “information”).

6 4. Information subject to this Protective Order shall be designated CONFIDENTIAL,
7 TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER by either party by stamping
8 “CONFIDENTIAL,” “TRADE SECRET,” or otherwise indicating confidentiality, trade secret or
9 produced subject to this Protective Order, as appropriate, on the face of a single-page document, on
10 at least the initial page of a multi-page document, and in a prominent location on the exterior of any
11 tangible object. Any electronically stored information may be designated as CONFIDENTIAL,
12 TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER through a correspondence providing
13 the media and a hard copy or printout shall be treated as protected material of the same designation.
14 Designation may only be made after a good faith review by counsel of record and counsel making
15 a designation shall comply with the standards set forth in Fed. Civ. R. P. 26(g) when designating
16 information as CONFIDENTIAL, TRADE SECRET or SUBJECT TO PROTECTIVE ORDER.

17 5. With respect to deposition testimony and deposition exhibits, either party may, either
18 on the record at the deposition or by written notice to counsel for the other party no later than forty-
19 five (45) days after receipt of the transcript of said deposition, designate portions of testimony and/or
20 exhibits from the deposition as CONFIDENTIAL, TRADE SECRET, or SUBJECT TO
21 PROTECTIVE ORDER. All testimony or exhibits, regardless of whether designated as
22 CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER on the record,
23 shall be treated as CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER
24 until forty-five (45) days after receipt of the transcript of said deposition by all parties. Certain
25 depositions may, in their entirety, be designated CONFIDENTIAL, TRADE SECRET, or
26 SUBJECT TO PROTECTIVE ORDER prior to being taken because of the anticipated testimony.
27 **Furthermore, any document designated as CONFIDENTIAL, TRADE SECRET, or**
28 **SUBJECT TO PROTECTIVE ORDER shall maintain that designation and the protections**

1 **afforded thereto if introduced or discussed during a deposition.**

2 6. The inadvertent or unintentional disclosure by either party of information considered
3 to be CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER shall not be
4 deemed a waiver in whole or in part of that party's claim of protection pursuant to this Protective
5 Order, either as to the specific information disclosed or as to any other information relating thereto.
6 Any such inadvertently or unintentionally disclosed information shall be designated as
7 CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER as soon as
8 reasonably practicable after the party becomes aware of the erroneous disclosure and shall thereafter
9 be treated as such by all receiving persons absent re-designation pursuant to Court order. Upon
10 receipt of the properly designated documents, the recipient must return or destroy the non-
11 designated set within three (3) days. If the recipient destroys the documents, then the recipient must
12 provide written certification of the destruction to the producer of the information within three (3)
13 days of receipt of the properly designated documents. Further, if, in connection with this action,
14 either party discloses or makes available documents or information later identified to be subject to
15 a claim of attorney-client privilege, attorney work product protection, or any other applicable
16 privilege or immunity from disclosure, whether inadvertent or otherwise, such disclosures shall not
17 constitute or be deemed a waiver or forfeiture of any claim of privilege or protection with respect
18 to documents or information or its subject matter in the Action or in any other federal or state
19 proceeding. This Paragraph shall constitute an order pursuant to Fed. R. Evid. 502(d) and shall be
20 interpreted to provide the maximum protection allowed by Fed. R. Evid. 502(d). If any party
21 becomes aware of the production or disclosure of such protected information by either party, that
22 party shall provide written notice of such production or disclosure within three (3) days after it
23 becomes aware that protected information has been disclosed or produced.

24 7. When information which is CONFIDENTIAL, TRADE SECRET, or SUBJECT TO
25 PROTECTIVE ORDER is presented, quoted or referenced in any deposition, hearing, trial or other
26 proceeding, counsel for the offering party shall make arrangements or, when appropriate, request
27 the Court to make arrangements, to ensure that only persons entitled to such information pursuant
28 to Paragraph 10 are present during such presentation, quotation or reference.

1 8. Subject to the requirements of Paragraph 12 of this Agreement, no person receiving
 2 information designated as CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE
 3 ORDER shall disclose it or its contents to any person other than those described in Paragraph 10
 4 below; no such disclosure shall be made for any purposes other than those specified in that
 5 paragraph; and in no event shall such person make any other use of such information. Counsel shall
 6 be responsible for obtaining prior written agreement to be bound to the terms of this Agreement
 7 from all persons to whom any information so designated is disclosed, and shall be responsible for
 8 maintaining a list of all persons to whom any information so designated is disclosed and, for good
 9 cause shown, such list shall be available for inspection by counsel for either party upon order of the
 10 Court; provided, however, that the requirements of this sentence shall not apply to disclosures made
 11 pursuant to Paragraphs 10(h) and/or 12 of this Protective Order.

12 9. Except as agreed by the parties or as otherwise provided herein, including in
 13 Paragraphs 10(h) and 12 of this Protective Order, information designated as CONFIDENTIAL,
 14 TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER shall (1) only be used in the
 15 preparation for trial and/or any appeal of this Action and (2) be maintained in confidence by the
 16 party(ies) to whom it is produced and not disclosed by such party(ies) except to persons entitled to
 17 access thereto pursuant to Paragraph 10 below. Except as provided in Paragraphs 10(h), (g), (k),
 18 and 12 of this Protective Order, information which is CONFIDENTIAL, TRADE SECRET, or
 19 SUBJECT TO PROTECTIVE ORDER may not be used by any person receiving such material for
 20 any business or competitive purpose or for use in matters other than this lawsuit, including other
 21 matters involving the parties.

22 10. Information designated as CONFIDENTIAL, TRADE SECRET, or SUBJECT TO
 23 PROTECTIVE ORDER by either party shall be disclosed only to the following persons:

- 24 (a) attorneys actively working on or supervising the work on this case;
- 25 (b) persons regularly employed or associated with the attorneys actively working
- 26 on this case whose assistance is required by said attorneys in the preparation
- 27 for trial, at trial, or at other proceedings in this case;
- 28 (c) the parties, including designated representatives and counsel for the entity

- 1 defendant;
- 2 (d) expert witnesses and consultants retained in connection with this proceeding,
- 3 to the extent such disclosure is necessary for preparation, trial or other
- 4 proceedings in this case and the expert or consultant has signed a written
- 5 acknowledgement attached as **Exhibit A**;
- 6 (e) the Court and its employees (“Court Personnel”);
- 7 (f) stenographic and video reporters who are engaged in proceedings necessarily
- 8 incident to the conduct of this action;
- 9 (g) deponents, witnesses, or potential witnesses, who have first-hand knowledge
- 10 of the document and have signed a written acknowledgment attached as
- 11 **Exhibit A**;
- 12 (h) the Nevada Division of Insurance, Nevada Attorney General, law
- 13 enforcement officers, and/or other government agencies, as permitted or
- 14 required by applicable state and federal law, including, but not limited to,
- 15 NRS 686A.283 to NRS 686A.289, inclusively;
- 16 (i) a jury involved in litigation concerning the claims and any defenses to any
- 17 claims in this lawsuit;
- 18 (j) anyone as otherwise required by law;
- 19 (k) as authorized by the disclosing party in writing; and
- 20 (l) other persons by written agreement of the parties when the person has signed a
- 21 written acknowledgement attached as **Exhibit A**.

22 11. Subject to Paragraph 12 of this Protective Order, the recipient of any information

23 designated CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER

24 pursuant to this Agreement shall maintain information in a secure and safe area and shall exercise

25 due and proper care with respect to the storage, custody and use of all such information.

26 12. Nothing in this Protective Order disallows State Farm’s maintenance or use of

27 information and documents in or pursuant to: its electronic claim system; the privacy requirements

28 of the Nevada Division of Insurance and other applicable state and federal laws; the records retention

1 requirements of the Nevada Division of Insurance, the Nevada Rules of Professional Conduct, or
2 other applicable state and federal laws; the records retention practices of State Farm; and any written
3 Court Order. Further, nothing in this Protective Order disallows reporting of information by State
4 Farm as permitted and/or required by applicable state and federal law, including NRS 686A.283 to
5 NRS 686A.289, inclusively, or reporting to the Insurance Services Office, Inc.

6 13. Either party may at any time request from the other party, in writing, the release of
7 information designated as CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE
8 ORDER from the requirements of the terms and provisions of this Protective Order. Upon receipt
9 of such request, counsel for the parties shall attempt to meet and confer. If the parties are unable to
10 agree as to whether the information at issue is properly designated CONFIDENTIAL, TRADE
11 SECRET, or SUBJECT TO PROTECTIVE ORDER, either party may raise the issue of such
12 designation with the Court pursuant to Fed. R. Civ. P. 26. Any information submitted to the Court
13 for review shall be submitted under seal and for in camera review. Pending a ruling from the Court,
14 the parties' designation shall control.

15 14. Nothing in this Protective Order shall preclude any party from responding to a validly
16 issued subpoena, provided, however, that the party responding to the subpoena shall provide written
17 notice of such subpoena to the attorney of the party that originally produced the documents within
18 three (3) days of receipt of a subpoena, which seeks production or disclosure of the information
19 which is designated CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE
20 ORDER. Production or disclosure of information which is designated CONFIDENTIAL, TRADE
21 SECRET, or SUBJECT TO PROTECTIVE ORDER may not occur until the deadline set forth in a
22 validly issued subpoena, absent agreement of the parties.

23 15. Nothing in this Protective Order shall prevent or restrict counsel for either party from
24 inspecting, reviewing, using, or disclosing the information designated as CONFIDENTIAL,
25 TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER. No disclosure pursuant to this
26 paragraph shall waive any rights or privileges of any party granted by this Protective Order.

27 16. Nothing in this Protective Order shall be construed as a limitation on the use of
28 evidence in a submission to the Court or at trial, subject to such confidentiality provisions as may

1 be ordered by the Court. However, prior to utilizing or filing a document which is designated
 2 CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE ORDER, the party
 3 intending to utilize the document shall comply with LR IA 10-5(b) and *Kamakana v. City and*
 4 *County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), or must provide notice to Counsel for the other
 5 party within a reasonable time, but in any event not fewer than 10 judicial days, to file a motion
 6 pursuant to LR IA 10-5(b) and *Kamakana* to show particularized good cause or particularized
 7 compelling reasons to file those documents under seal.

8 LR IA 10-5(b) provides:

9 Unless otherwise permitted by statute, rule, or prior court order,
 10 papers filed with the court under seal must be accompanied by a
 11 motion for leave to file those documents under seal. If papers are filed
 12 under seal pursuant to prior court order, the papers must state on the
 13 first page, directly under the case number: “FILED UNDER SEAL
 PURSUANT TO COURT ORDER (ECF No. ____).” All papers filed
 under seal will remain sealed until the court either denies the motion
 to seal or enters an order unsealing them.

14 Pursuant to *Kamakana* and LR IA 10-5(b), any documents designated as
 15 “CONFIDENTIAL” and attached to a non-dispositive motion shall be accompanied by a motion
 16 showing a particularized good cause for leave to file those documents under seal. Furthermore, any
 17 documents designated as “CONFIDENTIAL” and attached to a dispositive motion shall be
 18 accompanied by a motion showing a particularized compelling reason for leave to file those
 19 documents under seal.

20 17. The obligations of this Protective Order shall survive the termination of this action
 21 and continue to bind the parties and their counsel. The Court will have continuing jurisdiction to
 22 enforce this Protective Order irrespective of the manner in which this action is terminated.

23 18. Within thirty-five (35) days of the final determination of this action, each person or
 24 party who has received information designated CONFIDENTIAL, TRADE SECRET, or SUBJECT
 25 TO PROTECTIVE ORDER shall return all documents and information subject to this Protective
 26 Order, including any copies or extracts or summaries thereof, or to destroy such information and
 27 certify that it has been destroyed, except that the recipient need not destroy or return transcripts of
 28 depositions and materials filed with the Court, and party may retain one archival copy of all

1 pleadings in the action, regardless of whether such pleadings (including appendices) contain or refer
2 to information designated CONFIDENTIAL, TRADE SECRET, or SUBJECT TO PROTECTIVE
3 ORDER; provided, however, that the requirements of this Paragraph are subject to the requirements
4 of Paragraphs 10(h) and 12 of this Protective Order and to the routine business practices of State
5 Farm, and also subject to the regular business practices for maintenance and destruction of client
6 files by the parties' counsel. Within seven (7) days of the final determination of this action, counsel
7 of record who has provided information designated CONFIDENTIAL, TRADE SECRET, or
8 SUBJECT TO PROTECTIVE ORDER to other individuals must inform those individuals that the
9 matter has reached final determination and remind them of the return or destruction obligation. To
10 the extent that this Protective Order requires the destruction or return of documents at the conclusion
11 of this case, this requirement is not intended to require State Farm or its counsel to return or destroy
12 any documents that they are otherwise required by law to maintain.

13 19. This Protective Order may be modified by the Court at any time for good cause
14 shown following notice to all parties and an opportunity for them to be heard. The Court shall retain
15 jurisdiction to modify the terms of this Protective Order.

16 20. Nothing in this Protective Order shall prohibit any party from filing a motion seeking
17 further or different protection from the Court, or from filing a motion with respect to the manner in
18 which the information designated CONFIDENTIAL, TRADE SECRET, or SUBJECT TO
19 PROTECTIVE ORDER shall be treated at trial.

20 21. Subject to the requirements of Paragraph 16 of this Protective Order, the parties or
21 any party wishing to use any CONFIDENTIAL, TRADE SECRET, or SUBJECT TO
22 PROTECTIVE ORDER information or document in any brief, memorandum, motion, affidavit, or
23 other paper filed with the Court shall file a motion to restrict access pursuant to LR IC 1-1(i) and
24 referencing this Protective Order, and shall request access restriction to limit access to the parties
25 and the court in ECF/PACER.

26 ///

27 ///

28 ///

22. This Protective Order may be executed in counterparts, each of which shall constitute one and the same agreement.

Dated this 21st day of April, 2023.

Dated this 21st day of April, 2023.

LEWIS BRISBOIS BISGAARD & SMITH LLP

KAPLAN YOUNG

/s/ Robert W. Freeman

Robert W. Freeman, Esq.

Nevada Bar No. 3062

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Attorney for Defendant State Farm Mutual

Automobile Insurance Company

/s/ Kory L. Kaplan

Kory L. Kaplan

Nevada Bar No. 13164

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10091 Park Run Drive, Suite 190

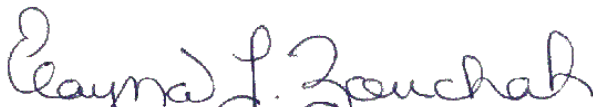
Las Vegas, Nevada 89145

Attorney for Plaintiff Renee Passadore

PURSUANT TO THE STIPULATION of the parties and for good cause shown;

IT IS HEREBY ORDERED that the Court adopts the full confidentiality Stipulation and Protective Order.

Dated this 21st day of April, 2023.



UNITED STATES MAGISTRATE JUDGE
2:22-cv-02118-MMD-EJY

EXHIBIT A

**ACKNOWLEDGMENT OF RECEIPT AND
AGREEMENT TO COMPLY WITH
STIPULATED CONFIDENTIALITY AGREEMENT AND
PROTECTIVE ORDER**

The undersigned, _____, hereby acknowledges that he/she has been provided with a copy of the Parties' **Stipulated Confidentiality Agreement and Protective Order** entered in Case No. 2:22-cv-02118-MMD-EJY, captioned *RENEE PASSADORE v. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY*, in the United States District Court for the District of Nevada. The undersigned has reviewed said Stipulated Confidentiality Agreement and Protective Order and hereby agrees to be bound by the terms thereof.

DATED this ____ day of _____, 2023.

By: _____
Litigation Participant - Signature

Name (Printed)

Street Address

City State Zip

Occupation / Business